



তথ্য অধিকার ফোরাম

# **Right to Information Act (RTIA) in Bangladesh: Challenges of Implementation**

**Right to Information Forum  
November, 2012**





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# CHAPTER I

## Executive Summary

In the wider context of democratic, participatory, transparent and accountable governance system, freedom of and access to information is currently considered to be as valuable as other basic rights of a common citizen. Legal structure for right to information - a precondition to such right based approach - has been established in Bangladesh through the introduction of the Right to Information Act (RTIA) 2009 with the preamble “to ensure free flow of information and people’s right to information”. On the course of formulating the act, civil society had vibrantly persuaded the policymakers through social campaign, lobby and advocacy. Nevertheless, effective implementation of the law demands no less attention, and calls for the civil society to complement the government’s effort by engaging in capacity building of the supply side for better service delivery, awareness raising of the mass people to promote demand, and research to identify challenges of implementation at the ground level while suggesting possible realistic solutions to those problems. The current volume, brought about by the Right to Information Forum, put forward experience and evidence based facts regarding challenges of implementation and suggested necessary doables for both the government and the non-government parties. In cases, lessons were drawn on best practices from other countries.

Chapter II briefly shades light on development pathway how RTI movement had culminated in enactment of the law. Demand for freedom of information was first put forward by the Press Council during the 1980s when the prevailing autocratic government had curtailed press freedom. In the following decades, it took a combined effort by the civil society organisations (CSOs), academics, media and legal experts to bring about the law. MJF pioneered the movement and was closely involved with the making process of the law. The law was drafted by a Law Core group in consultation with experts. Alongside, MJF with its allies started maneuvering the processes of knowledge and awareness building on RTI. In March 2007 the Law Core group submitted the draft law to the Law, Justice and Parliamentary Affairs and Information Advisor for its review and consideration. MOI, being responsible for reviewing and finalising the law, made the draft available to public for comments. This is one of the very few examples of participatory public policy making process in the country. The Council of Advisors approved the ordinance in September 2008. After the election, it was passed by the cabinet as an act in 2009.

Through enactment of the RTI Act, Bangladesh has made a strong statement to the global community that it is committed to establish transparency and accountability in public institutions. While proper implementation of the law is of utmost importance, successful implementation of the law is not only a responsibility of the government but also seek a close cooperation of the non-government counterpart. On completion of the second year of the implementation of RTIA, the Forum commissioned a survey based research to assess the implementation progress of the act and to investigate the other preconditions for free exchange of information. The survey was conducted among both provider end (government and private institutions) and receiver end (citizens) to reveal the grassroots level experiences of both information providers and information receivers and determining the action plan for the advancement of RTIA. Based on the survey, Chapter III argued that supply of information and the delivery arrangements were likely to be affected by the demand of information. The stronger the demand factor, the more pressure on the

supply side would be created for its delivery. Demand for information was higher towards public agencies which were expected from the perspective of greater relevance of the public sector both in terms of improved governance and credibility of information. The survey found a significant portion of the respondents to be unaware of the RTIA and the RTI itself. It may not be a surprise that the tendency to use the RTIA was very low even among those who asked for information from different institutions. The study revealed that more than one-fifth of the applications for information were directly linked to improved transparency and accountability of the government- one of the core roles that RTI can play. Demand for information was found to exist strongly among the survey respondents though lack of awareness of the legislative framework seemed to appear as a major constraining role in this regard. The authorities were more or less willing to provide information reflected by the fact that 90 percent applicants have received the information they asked for. However, in 26.6 percent of cases people received incomplete information. Although in majority (57.5 per cent) of cases unavailability of information caused the partial delivery of information, the remaining significant share of cases reflect problems associated with the delivering authority and other issues associated with the scope of RTIA. Information seekers faced different types of harassment while collecting information. An overwhelming majority of the information seekers had to visit the information provider's office more than necessary, had to make special requests, had to make an extra payment or had to face difficulties to find out the responsible Information Officer (IO). Though information seeker group was well balanced in terms of gender class, experiences of female applicant were found to be higher in terms of harassment in collecting information were not similar. The study revealed several constraints at both demand and supply side of information flow that remained outside the jurisdiction of the RTIA. Major reason for incomplete information has been found to be information unavailability. The ongoing efforts by government institutions to build their website and information/data bank could be linked to RTI to address this issue. To avoid the unnecessary frequent visits, the utilisation of mobile communication can be fruitful. The government, NGOs and the media



should collaborate on a mass awareness building programme which should be at the centre of the RTI movement. Unless the demand pressure is there, the supply side capacities cannot be fully developed and sustained, and hence weakness at both ends will remain.

Chapter IV looked at the issue from the perspective of information providing institutions and found that a significant number of those institutions did not recruit IO. Other drawbacks holding back recruitment of IOs included lack of knowledge about their own institutions as information provider, lack of knowledge about recruiting IO, lack of obligation to recruit IO and lack of authority and guideline to recruit IO. As reasons for failure to provide information, organisations identified failure to find the information, enquiry on information which were in the exemption list and unavailability of information and under development information. Most of the respondents objected that strength of the Information Commission was insufficient as a result of lack of financial independence of the Commission. Designation of the Commissioners was also reported to be inappropriate to hold the authority over other information providing agencies.

Finally, Chapter V explored experiences of some countries which have successfully implemented the law i.e., India, Mexico and South Africa with occasional linkages with Canada. It also provided a comparison between the legal strength of the act among the South Asian countries. It was argued that one of the major challenges of implementing the RTI Act was the culture of secrecy which not only affected administrative culture but also embarrassed political considerations. Some means to come out from the culture of secrecy may include putting more emphasis on training, giving more support to IOs. Drawing upon experiences of other countries, the system to provide information should be improved, public awareness be raised and the people should be encouraged to make use of the law, and above all the legal organisations especially the Information Commission be allowed to freely and efficiently carry out their responsibilities. Best practices from country experiences revealed that two issues need to be given importance—a simple and universally understandable process to

seek information and a system to voluntarily disclose information. Properly managing information was another important element for effectual implementation of right to information. Complaint and grievance redress system was found to be essential to ensure right to information.

To finish off, several obstacles on both supply and demand side were found to hinder free flow of information. On the supply side, it needs to be ensured that institutions are aware of their obligation to provide information to the public and take proactive measures to effectively respond to all requests. Necessary training and resource management is also important. Building awareness among the citizens of the right, of the importance of conscious practice of this right and of the existing legal framework that protects this right appears to be the next challenge for effective implementation of the Right to Information Act. Along with the government, vital role is to be played by the civil society, the media and the development workers.

*This Executive Summary is prepared by  
Ashiqun Nabi, Junior Research Fellow, IID and  
Tahmina Rahman, Director for Bangladesh and South Asia region,  
ARTICLE 19*

# CHAPTER II

## How RTI Act 2009 Evolved in Bangladesh

Shaheen Anam\*

### Introduction

The Right to Information Act 2009 was a ground breaking decision on the part of the Bangladesh government and paved the way for all citizens to get information from public authority as a right.

The rationale for the law is clearly stated in the preamble, “The right to information shall ensure that transparency and accountability in all public, autonomous and statutory organizations and in private organizations run on government or foreign funding shall increase, corruption shall decrease and good governance shall be established. It is expedient and necessary to make provisions for ensuring transparency and accountability.”

Unlike India, the law was passed through the efforts and effective lobbying and advocacy of many civil society organisations, academia, media, researchers, legal experts, etc. rather than initiating from the grass root level.

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*\*The author is the Executive Director of Manusher Jonno Foundation.*

## Background

The demand for a law on freedom of Information was first articulated by the Press Council in the early 1980s as a response to curtailment of Press Freedom under a dictatorial regime. After that a number of civil society organisations started to have discussions on the necessity of adopting a RTI regime in Bangladesh. The Law Commission prepared a working paper on RTI in 2002. Looking at examples of other countries where RTI regimes have changed the outlook of public institutions, Manusher Jonno Foundation with others embarked on a mission to facilitate the enactment of the RTI law by first commissioning a study to assess the existing perception about RTI in Bangladesh, which was more related to freedom of information with respect to the media than right to information as a governance or development tool. The main reason behind this is the “culture of secrecy” which prevails in every sphere of the governance system of the state.

## How RTI evolved in Bangladesh

Three Core Groups were formed, such as the Law Drafting Core Group, Policy Advocacy Core Group and Awareness/Capacity Building Core Group, to broaden the support base and raise demand for the law and these groups were facilitated by MJF.

## Drafting RTI Law

The Law Core Group comprised of noted legal experts of the country provided inputs, feedback and reviewed the draft several times while Advocate Tanjibul Alam drafted the law. After a series of regional and national level consultation meetings, the draft was formally presented to the Law Advisor of the Care Taker government in 2007.

## Process of Awareness Raising and Capacity Building

In 2005, MJF partnered with Commonwealth Human Rights Initiative for technical assistance in catalysing RTI in Bangladesh. Meanwhile, a process of knowledge building was started through developing various communication materials, theme song on RTI and commissioning

research. MJF partner organisations plus other networks were actively involved in this process.

## Networking and Alliance building with different Stakeholders including Media

The core group on Policy Advocacy and Mass Mobilisation also initiated a series of activities such as writing articles, holding TV talk shows, orienting NGOs, local journalists, policy makers, etc. Through regional and international networking, alliances were built with national and local partners for issue based mobilization on RTI such as Transparency International Bangladesh, PET, Bangladesh Enterprise Institute, SUPRO, SANAK, Article 19, Commonwealth Human Rights Initiative (India), MKSS (India). Eminent personalities were approached to act as champions for the law as well as to lobby and advocate for enactment of the RTI law.

## Engaging Government

In March 2007 the Law Core group submitted the draft law to the Law, Justice and Parliamentary Affairs and Information Advisor for its review and consideration.

In December 2007, the Care Taker Government declared officially that RTI will be enacted as an Ordinance and instructed the Information Ministry to prepare the draft law with assistance from the draft submitted by the civil society. The Ministry of Information (MOI) formed a working group to draft and finalise the law and MJF representative was officially part of the working group. Before finalisation the MOI organised a national seminar in March 2008 to share the draft and put it up on the website for comments. This is one among very few initiatives of Bangladesh Government where it opened up its policy for public comments.

The Council of Advisors approved the ordinance on 20 September 2008. In 20 October 2008, it was passed as an Ordinance by the President.

## Formation of RTI Forum

A Right to Information (RTI) Forum consisting of 40 members was set up with the objective of creating demand for the enactment of the RTI Ordinance and monitoring its implementation. The Forum appeared through a press release on 24 July 2008 with an aim to advocate for formulation of an effective, useful, pro-people RTI Act with a provision of strong and neutral information commission

## Engaging Political Parties

Civil society groups were aware that political parties need to be engaged if the law was to be passed in Parliament once an elected government came to power. With this view a series of consultations and meetings were held with members of the main political parties.

## Legislation of the RTI Act 2009

After the General Elections of December 2008, the RTI Forum again started to lobby with Parliamentarians for the enactment of RTI law.

Finally, on March 20, 2008 it was approved in the Cabinet and on March 29, 2008 it was passed in the very first session of Parliament with few changes recommended by the special committee.

- The law has included the provision of supremacy of this Act in case of contradiction with other laws in disclosing information.
- Government nominated person involved in journalism profession or citizen involved in mass communication was included in the selection committee of Information Commission.
- The exemption list for restricting information is quite longer, though provision has been made for providing information within 24 hours in the case of human rights violation (arrest and bail) and information related with life and death.
- Other minor change was made in the case of quorum formation of Information Commission meeting.

## Limitations

Though the list of exemption is long and civil society groups are critical about it, there is scope to make strong advocacy to make it more focused and specific during implementation. Government is yet to decide on the authority of the Information Commission and rank and salary of Chief Information Commissioner.

## Conclusion

Though the RTI Act, 2009 has not fully incorporated all international best practices, compared to many countries, it is a progressive law to ensure the effective usage of this law, massive campaign and mobilisation are required. Civil society organizations and the Information Commission have already embarked on awareness raising campaign and dissemination.

In enactment of the RTI Law Bangladesh has made a strong statement to the world that it is committed to establishing transparency and accountability in public institutions. This commitment will be tested only with proper implementation of the law.

# CHAPTER III

## Right to Information Act: Challenges of Implementation

Md. Ashiq Iqbal\*  
Gopal Kumar Dey\*

### 1. Introduction

Efforts to ensure citizens access to public information can be traced back to 1766, with the Swedish parliament enacting the first legislation seeking freedom of information. However, recognition of the right to information as a human right was formalised with its inclusion in the Universal Declaration on Human Rights (Article 19) in 1948. Nevertheless, the world, having celebrated the 63rd anniversary of the declaration, is yet to realise its true objective. Although many countries have incorporated right to information in their domestic legislation, significant impediments still remain in almost all countries restricting free flow of information. As Mustonen (2006) pointed out, enactment of the law marks the beginning and not the end. Among others, free flow of information will need a strong civil society to create effective demand for information; the change in culture and attitude of the government will be another fundamental prerequisite.

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*\* Authors are researchers at the Institute of Informatics and Development (IID), Dhaka, Bangladesh.*



It is increasingly recognised that impediments to information feed corruption by allowing hidden public spending deals. Secrecy also creates inability at the citizens' end in assessing government decisions. It is from this perspective access to information is predominantly thought of as a tool to fight corruption. However, access to information is equally important in strengthening citizens' role in enhancing governance efficacy of the leaders as well as meeting their own responsibilities in a participatory and transparent governance framework. As such, access to information is now thought of as a cornerstone of democracy (Neuman 2002).

There are four preconditions to free flow of information and right to information (RTI): (1). information preservation, (2) enthusiastic information receivers and providers, (3) legal structure for RTI, and (4) administrative and operational ability for implementing RTI. In Bangladesh legal structure of RTI has been established through the introduction of Right to Information Act (RTIA) in 2009. RTIA was enacted in the parliament on March 29, 2009 and was published as a gazette on April 6, 2009 with the approval of the president. The objective of the law was “to ensure free flow of information and people's right to information”; however, much remains to be achieved in the other three areas.

On completion of the second year of the implementation of RTIA, Right to Information Forum (RTIF) initiated a survey to assess the implementation progress of the RTIA and to investigate the other preconditions for free exchange of information. The survey was conducted both among the citizens and government and private institutions with the objective of identifying the experiences of both information providers and information receivers and determining the action plan for the advancement of RTIA. This paper is a reflection of the main survey outcomes, acknowledging that the circumference of the survey was very limited and the sampling was not a representative one. As a result, it does not necessarily represent the complete scenario of Bangladesh, rather it represents the condition of the individuals and the institutions considered in the survey only. At the same time, this paper primarily focuses on the outcomes from the citizen survey

while only drawing on the relevant institutional findings in general terms without much details.

Section 2 of this paper reflects on the “information demand” situation found in the survey. Section 3 discusses the constraints and issues identified at the supply side. Section 4 puts forward some policy recommendations to deal with the observed constraints, and section 5 concludes. However before moving on to the survey findings, a brief on the survey itself on the onset could be useful.

## 1.1 The Citizen Survey

In the citizen survey a total of 1,019 people participated; of which 31.5 percent were female and 68.5 percent were male. Participants were selected purposively from Rangpur, Cox's Bazar, Bhola, Khulna and Jessore district and Dhaka Metropolitan City. About 80 percent respondents aged between 25 and 54.

The institutional survey included 216 government and private institutions, including health institutions, educational institutions and local government institutions, from 36 different areas of the country. Among them, 108 were government institutions and 108 were non-government institutions (NGOs). In this case, the respondents were either the head of the institutions or the officials who were well informed about the institutions and their activities. About 91 percent of the respondents were male and 9.3 percent were female, with an average age of 46.8 years. These respondents have been working with the institutions for more than 7 years on average among which respondents from the government organizations and NGOs have been working respectively for 3.5 years and 10.7 years on average.

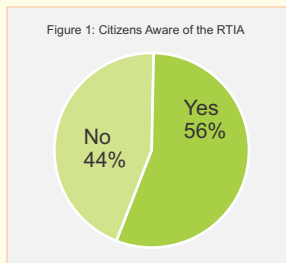
## 2. The Demand Factor

Supply of information and the delivery arrangements are likely to be affected by the demand of information. The stronger the demand factor, the more pressure on the supply side is created for its delivery. Survey evidence showed that 86.4 percent applicants placed their applications to the

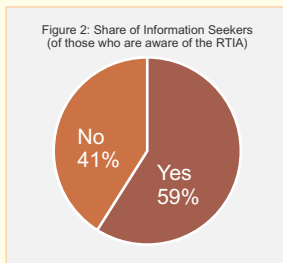
government institutions, whereas only 13.6 percent applied to the non-government institutions. This is expected from the perspective of greater relevance of the public sector both in terms of improved governance and credibility of information. Along with the awareness level of the citizenry and the status and maturity of the civil society, the relevant legislative framework plays a vital role in the creation of the demand for information.

## 2.1 Unknown Right of Right to Know

It may be argued that demand for information by the citizen is preconditioned by the awareness of their own right to information and the legislative framework upholding this right. Surprisingly, an overwhelming proportion of the respondents are found to be unaware of the legislation. The citizen survey found that 44.2 percent of the respondents were unaware of RTI and RTIA. Of the 55.8 percent survey respondents who knew about RTIA, 59.2 percent sought information from institutions after the enactment of RTIA (on July 1, 2009). Indeed, this indicates a significant share of information seekers in the survey population (33.1 percent).



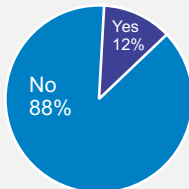
Source: Citizen Survey 2012.



Source: Citizen Survey 2012.

However, the tendency to use the RTIA was very low even among those who asked for information from different institutions. Only 12.5 percent applicants who asked for information used the prescribed application form of RTIA.

Figure 3: Applied using the Prescribed Form  
(of the seekers)



Source: Citizen Survey 2012.

Therefore, the demand for information seems to exist in Bangladesh. The key barrier to information flow that came out of this survey is the unawareness of the citizens about RTIA. The respondents tend to put the blame on the government for not reaching out to the mass in building the required awareness, deliberate or not. The study found 84.1 percent respondents identified inadequate publicity as the major obstacles. It is to be noted here that the institutional survey findings, the other component of the overall survey component, also identified the lack of awareness of the legislation to be the major impediment to free flow of information.

## 2.2 Pattern of Information Need

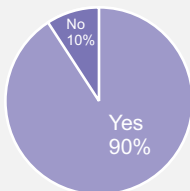
According to the survey result, 57.1 percent applicants applied for information to facilitate implementation of programme of their own institutions. On the other hand, 52.8 percent citizens required the information applied for to help other citizens: 21 percent citizens wanted to ensure the accountability of the government institutions and the remaining 24.7 percent required the information for other reasons.

As mentioned above, more than one-fifth of the applications for information were directly linked to improved transparency and accountability of the government- one of the core roles that RTI can play. At the same time, although further disaggregation of responses are not available, the first

category of applications, to a large extent, is likely to facilitate NGO programmes' implementation, which could further add to the share directed to improved accountability.

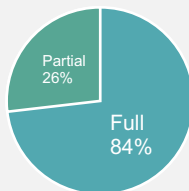
Indeed, the demand for information exists among the survey respondents. Lack of awareness of the legislative framework seems to appear as a major constraining role in this regard.

Figure 4: Success Rate in Receiving Information



Source: Citizen Survey 2012.

Figure 5: Receipt of Information (partial Vs full)



Source: Citizen Survey 2012.

### 3 Supply of Information

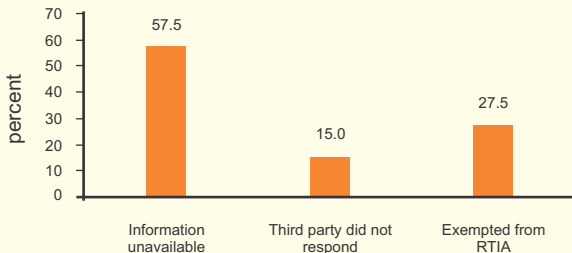
One of the interesting findings of the survey was that 90 percent applicants have received the information they asked for and 73.6 percent of them received complete information. In other words, the authorities were more or less willing to provide information.

However, in 26.6 percent of cases people received incomplete information. Although in majority (57.5 per cent) of cases unavailability of information caused the partial delivery of information, the remaining significant share of cases reflect problems associated with the delivering authority and other issues associated with the scope of RTIA; 15 percent respondents reported that the concerned third party did not respond<sup>1</sup> and the rest 27.5 percent

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1. Third party is a public authority other than the public authority to whom the request for information has been made.

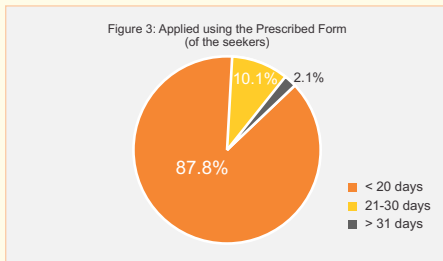
Figure 6: Reasons for Getting Partial Information



applicants told that their required information was included in the exemption list of RTIA and consequently the institution was not liable to provide that information.

### 3.1 Time and Cost Involvement

According to the Right to Information Act, there is an obligation of providing the requested information within 20 working days. However, if the requested information is associated with some other departments,



Source: Citizen Survey 2012.

units or institutions, there is provision for extension of the response period up to 30 working days. Evidence from the survey reveals that in most of the cases institutions are compliant with this timeframe. About 88 percent of the applicants who received their requested information received it within 20 days from the day of their application (64.1 percent received information within ten days). For the rest of the applicants, 10.1 percent received information within 30 days. In only 2.1 percent cases, more than 30 working days were taken by the information providing authorities.

At the same time, 90.8 percent of the applicants did not need to pay to get their requested information and the rest 9.2 percent applicants had to pay in different rates. Of them, 45.2 percent paid less than BDT100 and 38.7 percent paid between BDT101 and 500 and the rest 16.1 percent had to pay more than BDT500.

### 3.2 Issues Faced by the Information Seekers

From the responses of the applicants, majority of the process went smooth without issues. About 71 percent of the respondents who received information did not face any trouble to collect information. But, on the other hand, 29.4 percent applicants reported that they faced different types of harassment while collecting information. An overwhelming majority of the information seekers (87.8 percent) had to visit the information provider's office more than necessary, 60.0 percent had to make special requests, 7.8 percent had to make an extra payment and 25.6 percent had to face difficulties to find out the responsible Information Officer (IO). While 88.7 percent information seekers had to visit the information providing institutions physically to get their requested information, only 2.6 percent applicants collected information through postal service. At the same time, more than one fifth of the applicants reported to have faced rude behaviour from the information providers.

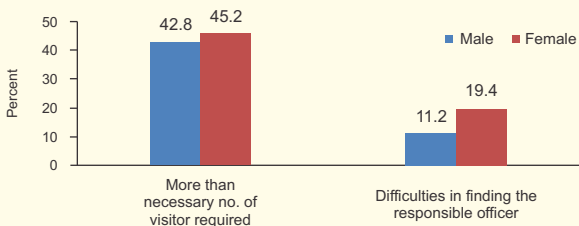
### 3.3 The Gender Dimension of Access to Information

This study found minor differences between the experiences of male and female regarding information collection. Among the female applicants,

89.7 percent received information within 20 days, 6.9 percent within 30 days and 3.4 percent failed to receive information within specified period. In the case of the male respondents these percentages were respectively 84.9 percent, 12.9 percent and 2.2 percent.

But, on the other hand, experiences of male and female in terms of harassment in collecting information, were not similar. In the case of female information seekers, 45.2 percent female had to visit the institutions more than necessary (42.8 percent for male applicants) and 19.4 percent faced difficulties in finding out the responsible information officer (11.2 percent for male applicants).

Figure 6: Reasons for Getting Partial Information



Source: Citizen Survey 2012.

However, given the subjective nature of these responses, the problem may or may not be associated with the information providers. For example, even if the number of visits were same for male and female applicants, the very real transport related hassles faced particularly by women, could lead to a more negative perception about the issue.

### 3.4 Efficacy in Providing Information: Government vs. Non-Government Institutions



Willingness to provide information seems to exist at similar levels in both public and private institutions. Experiences of the applicants were similar in both the governmental and non-governmental institutions. It is found that 10.3 percent citizens failed to collect information from the government institutions, whereas the percentage was 8.7 in the case of non-government institutions. The percentage of getting incomplete information was 26.1 for the government institutions and 28.6 for the non-government institutions.

In general, both in the cases of public and private institutions, majority of the applicants received information through general communication: 60.6 percent for government institutions and 62.1 percent for non-government institutions. However, albeit in limited occurrences, the government institutions seem to be comparatively more inclined towards personal level communication- 4.1 percent and 1.5 percent of the applicants exercised their personal influences to collect information from the government and non-government institutions respectively.

On the other hand, the government and non-government institutions are nearly in the same position regarding time requirement to provide information. Within 20 days from the day of application the government institutions were able to respond to 85.5 percent of applications, whereas this was 88.6 percent in the case of non-government institutions.

#### 4. Policy Recommendations

RTIA is a necessary, but not sufficient, condition to ensure free flow of information and access to information of the people. As revealed from the above discussion, several constraints, at both demand and supply side of information flow, remain outside the jurisdiction of the RTIA. Based on the identified issues, this section puts forward some suggestions to strengthen the implementation of the RTIA, directly or indirectly.

**Incomplete information due to its unavailability:** The major reason for incomplete information has been found to be information unavailability.

According to 5 (1) of RTIA, authorities are obliged to catalogue and index all information and preserve those in an effective manner in order to facilitate RTI. The ongoing efforts by government institutions to build their websites and information/data bank could be linked to RTI to address this issue. At the same time, by analysing the complaints placed with the information commission and by using the experience of the last two years, the highly demanded information can be added on to these websites and in the information banks. Moreover, the exceptional information can be enlisted and collected through different government annual surveys.

**Unnecessary visits:** With very few insignificant exception, almost all applicants were required to be physically present to collect the information and reportedly had to visit multiple times. However, this situation can be overcome through the application of information and communication technology. For example, only 2.6 percent applicants collected information through postal service, which reflects the weak state of Bangladesh postal services. To avoid the unnecessary frequent visits, the utilisation of mobile communication can be fruitful. The information providing institutions can send a text message to the applicants about the application status including the date of information collection. On the other hand, emphasising websites to provide information by the institutions can reduce the requirement of applications and visits by the applicants in the first place.

**Lack of awareness regarding the RTIA:** About half the citizens are unaware of the RTIA. At the same time, the survey on institutions revealed that half the institutions are lacking information officers and an absence of awareness within institutions regarding their legal obligations is also evident. The government, NGOs and the media should collaborate on a mass awareness building programme, which should be at the centre of the RTI movement. This awareness building programme should also focus on making the citizens aware of how access and free flow of information plays a significant role for the enhancement of their economic and social life.

**Weak Information Commission:** According to majority of the information providers, information commission is not strong enough to intervene.

Rank of the commissioners of the information commission should be made identical to the commissioners of other commissions.

## 5. Conclusion

In order to facilitate the practice of the right to information by the citizens, critical interventions at both demand and supply side of information flow are required. This study attempted to assess the existing situation at both ends relying on a citizen perception survey. As the findings reveal, demand for information is gradually emerging but predominantly constrained by a serious lack of citizen awareness about the right and the legislation. The study also identified a number of supply-side constraints. Indeed, enactment of the Right to Information Act has been an important milestone achieved towards resolving many of the supply-side constraints by making the authorities more responsible in providing information. However, it is not enough to generate a meaningful demand for information. Unless the demand pressure is there, the supply-side capacities cannot be fully developed and sustained, and, hence, weakness at both ends will remain.

Therefore, building awareness among the citizens of the right, of the importance of conscious practice of this right and of the existing legal framework that protects this right appears to be the next challenge for effective implementation of the Right to Information Act. Along with the government, vital role is to be played by the civil society, the media and the development workers.

# CHAPTER IV

## Implementation Status of RTI Act 2009: The Institutional Perspective

Md Habebur Rahman\*

### 1.1 Introduction

Being a basic human right itself 'Right to information and free flow of information' plays a significant role to achieve other basic human rights. Free flow of information prevents corruption; ensures transparency and accountability of the individual and institutions along with supporting them take the right decisions about socio-economic and political affairs.

With 3 years passed since the introduction of the Right to Information Act (RTIA) in Bangladesh, it is imperative to look at the current status of implementation and to identify the contemporary challenges. This study is an effort in that direction and is based on the survey initiated by the Right to Information Forum (RTIF) on completion of the 2nd year of the implementation of RTIA. While the survey covered the citizens and the institutions (public or private), this study is confined to the institutional component of it. The findings of the study should help to change the

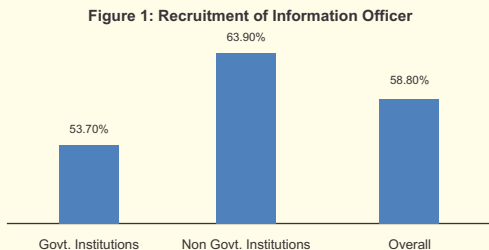
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mentality of both government and non-government institutions for implementing RTI, to take adequate preparations, and to determine and introduce necessary administrative guidelines for ensuring free flow of information through this act.

## Institutional Perspective to RTIA implementation

### 2.1. Responsible Officials

After the implication of RTIA, only 58.8 percent of the surveyed institutions recruited a designated information officer out of which 53.7 percent were government institutions and 63.9 percent were non-government institutions.



On the other hand, those institutions that did not recruit information officer mentioned lack of knowledge about their own institutions as information provider (7.9 percent), lack of knowledge about recruiting information officer (18 percent), engagement in some other activities (7.9 percent), lack of obligation to recruit IO (18 percent) and lack of authority and guideline to recruit IO (38.2 percent) as reasons for not recruiting an information officer. The rest 15.7 percent had a designated information officer.

51.7 percent of the institutions that have not recruited an IO are considering to recruit one. Among this 51.7 percent, 58 percent were government

institutions and 48.7 percent were non-government institutions. 90.6 percent of the institutions who have recruited an IO have taken several measures to help the IO perform all its responsibilities. These measures include training the IO (29.6 percent), making the IO study law (24.3 percent), making the IO read the RTIA handbook (44.3 percent), organizing in-house training (23.5 percent) and by using other means (16.5 percent) which includes reading newspapers, verbally understanding the act and providing information of the institution.

## 2.2. Information Receiving of the Citizens

After the implementation of RTIA, citizens applied for information to 83.3 percent of the information providers. Among the information providers, 84.3 percent were government organizations and 83.3 percent were non-government organizations. Whether this enquiry was made in the recommended format of RTIA is unidentified. 62.8 percent of the enquired information was management related, 40 percent were regarding any specific decision making, 28.9 percent were financial enquiry and 36.7 percent were related to some other matters including recruitment, tender and service enquiries. Among the 9.5 percent institutions who failed to provide the enquired information of the citizens, 9 percent were government and 10 percent were non-government institutions. As reasons for failure to provide information, 47.1 percent organizations identified failure to find the information, 29.4 percent were enquired on information which is in the exemption list and the rest 23.5 percent mentioned other reasons like unavailability of information and under development information were mentionable.

## 2.3. Self-drive Information Publication

According to section 6 and subsection 1 and 2 of RTIA “Every authority shall publish and publicize all information pertaining to any decision taken, proceeding or activity executed or proposed by indexing them in such a manner as may easily be accessible to the citizens; (2) In publishing and publicizing information under sub-section (1), no authority shall conceal any information or limit its accessibility.” The study found that different

institutions publish their institutional information in different ways which include websites (28.7%), annual report (57.4%), leaflet (41.6%), notice board (73.3%), advertisement (20.8%), publication (31.7%), meeting/conference (38.6%) and other ways (12.9%).

## 2.4. Key Challenge for Implementing Right Information Act

The respondents identified several major challenges on the way of implementing RTIA. 75.3 percent identified inadequate advertisement as the biggest challenge, 73.5 percent blamed unawareness of RTIA, 44.7 percent mentioned lack of interest of the authority to provide information, 38.1 percent mentioned tendency of secrecy, 33.5 percent mentioned lack of demand of information, 30.7 percent blamed absence of institutional infrastructure, 22.8 percent mentioned passiveness/nonparticipation of non-government organization, 20.5 percent mentioned lack of technical planning/readiness, 16.3 percent mentioned lack of interest of media, 13 percent blamed limitation of the act and rest 13.5 percent identified few other challenges to implement RTIA.

**Table : Key Challenges for Implementing RTIA**

Key Challenges	Govt. (%)	Non-Govt. (%)	Total (%)
Unawareness about RTIA	72.2	74.1	73.5
Lack of interest of the authority	26.2	63	44.7
Lack of Demand of Information	31.8	35.2	33.5
Inadequate publicity	77.6	73.1	75.3
Nonparticipation of NGOs	17.8	27.8	22.8
Wrong Explanation of Law of Institution	5.6	9.3	7.9
Lack of Readiness of Institutions	26.2	35.2	30.7
Lack of Technical Readiness	22.4	18.5	20.5
Secretive Mentality	27.1	49.1	38.1
Frustration from Limitations of Law	10.3	15.7	13
Lack of Interest of Media	11.2	21.3	16.3
Others	15	12	13.5

Source: Field Survey, 2011; Note: each respondent had several responses

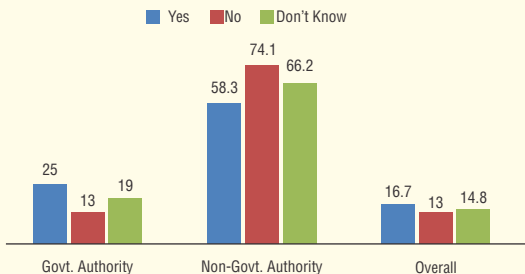
## 2.5. Sufficiency of the Punishment for Violating RTIA

More than half of the total respondents (50.5 percent) found the punishment for violating the RTIA sufficient; on the other hand 34.7 percent people find it insufficient and the rest 14.8 percent respondents regretted this question for their lack of knowledge on this. Among the people who considered the punishment for the violation insufficient, 82.7 percent people found the penalty amount insufficient; 28.0 percent found the fine collection process very lengthy and the rest 10.7 percent people did not specify their reasons.

## 2.6. Strength of Information Commission

19 percent of the respondents considered the strength of the information commission sufficient whereas 66.2 percent respondents considered it insufficient; and 14.8 percent respondents did not comment on this issue. However, drilling down the data into different slices gave meaningful

Figure 2: Strength of Information Commission



insights. 25 percent of the information providers of government institutions thought the strength of the information commission sufficient whereas this percentage was only 13 percent for the information providers of non-government institutions.

Those who considered information commission's strength insufficient stated some causes behind their stands. 35 percent respondents stated that



there was no financial independence of the commission and 19.6 percent respondents said the designation of the commissioners were inadequate. 30.1 percent respondents told that they did not have detailed knowledge about the punishment for violating RTIA. More than half of the respondents (51.7%) were unaware of the initiatives undertaken by the Information Commission, of implementing RTIA and disseminating the information on the same to all offices at different levels, lack of campaigning extensively on this issue and lack of the will of the government etc. It is to be noted that, the official designation of information commissioner is same as the government Secretaries unlike the other commissioners whose designation is equivalent to that of the Justice of the High Court. So, there is a ground for reconsideration of designation of the Information Commissioners.

### 3. Recommendations for Implementing RTI

Though RTIA is a necessary condition to ensure free flow of information and access to information of the people, there are some other preconditions for the law enforcement. Lack of adequate publicity and limitation in the implementation structure has been identified as the key factors in this regard. Based on the difficulties in exchange of information faced by both individual and institutions, five things can be suggested as recommendations for implementing RTIA:

#### 3.1. Readiness of Information

Readiness of information is the first and foremost condition to exchange information. In the citizen survey, 57.5 percent applicants who have received incomplete information have claimed the unavailability of information with the authority as the major cause. But under section 5(1) of RTIA, it has been clearly stated, “In order to ensure right to information under this Act, every authority shall prepare catalogue and index of all information and preserve it in an appropriate manner.” However, to implement this clause of the Act, institutions particularly government institutions are suffering from financial crisis and inadequacy in different heads of the budget. But lack of information can be minimized with the

proper utilization of the present structure of the government. For example, the government institutions are developing websites and data/information banks under different projects which can be used for implementing RTI. By analyzing the complaints placed with the information commission and by using the experience of the last two years, the highly demanded information can be added on these websites and in the information banks. Moreover, the exceptional information can be enlisted and collected through different government annual surveys. The lack of information preservation is also originated from the secretive mentality. So, the institutions can be encouraged to preserve information for the proper implementation of RTIA.

### 3.2. Infrastructure for Information Dissemination

The study found that 88.7 percent information seekers had to visit the information providing institution physically to get their required information. 87.8 percent of the harassed information seekers said that they had to visit the institutions more than necessary. However, this situation can be overcome through the application of information and communication technology. For example, only 2.6 percent applicants collected information through postal service, which reflects the real scenario of Bangladesh postal services. To avoid the unnecessary frequent visits, the utilization of mobile communication can be fruitful. Even, the information providing institutions can send a text message to the applicants about the application status including the date of information collection.

### 3.3. Mass Awareness and Creation of Demand for Information

The major issue that came out from both the experiences of the individual and the institutions is unawareness about RTIA. About 44.2 percent respondents of the citizen survey are unaware of the RTIA. On the other hand, even after two years of introducing RTIA only 53.7 percent government institutions and 63.9 percent non-government institutions have recruited their designated information officer. Those who have not recruited designated officers lack clear knowledge of legal obligations. Along with the observation of 'Right to Information Day', mass media

should be used for raising mass awareness about RTIA. In this regard inclusion of RTI in the text book is undoubtedly a positive initiative.

The demand for information is created not only from the awareness of the citizens about RTI. Knowledge on how information plays a significant role for the enhancement of their economic and social life should also be communicated with the citizens.

### **3.4. Structure of Law Enforcement**

Evidences from the study showed that 15 percent applicants received incomplete information due to the inactivity of the relevant third party who was supposed to provide the information. Here the legal obligation of the third party is not clearly defined in the RTIA 2009.

66.2 percent among the government and NGO participants of the survey thought that the strength of the information commission is not sufficient to ensure proper implementation of RTIA. However, the recent decision of the information commission about the two government officials is really appreciable. N.B. the reflection of that particular occurrence has been avoided in this survey as it has occurred after the data collection. The information commission should take serious legal action about the institutions that have not recruited designated information officers yet. In addition to that, information commissioner's designation should be made equivalent to the commissioners of other commissions.

### **3.5. Alternative methods of Information Collection**

Application for information collection and processing of that application is time consuming, laborious and costly for both the information providers and information receivers. So, institutions should be made aware of the benefits of alternative means information providing. For an example, the daily tasks related to information providing can be reduced to a greater extent by uploading the most demanded information on the institutional websites.

Most of the citizens who failed to collect information or were harassed during information collection, blamed the absence of the designated information officers. There should be an acting information officer in absence of the designated information officer. Another issue that has to be ensured is that the designated information officers are seated in an easily accessible place for the public.

Balance of Supply and demand is a precondition to any form of exchange. RTIA can ensure the supply of information but the demand has to be ensured by public participation. Introduction of RTIA not only makes the information providing officials accountable but also increases the responsibility of the citizens, mass media and development workers for identifying the impediments to the establishment of RTI and creating the demand of information among the public.

# CHAPTER V

## Challenges of implementing the Right to Information Act: Experience of Others and Lessons for Bangladesh

Dr. Sohel Iqbal\*

The implementation of the Right to Information Act is a significant tool to ensure transparency, accountability, good governance, democracy, participation and the like. The proper application of this law can drive away frustrations of the citizens of a developing country. The law can serve as a solid bridge of tripartite communication between government-administration and the citizens. It can help people to feed their curiosity about “what is happening” or “what is going to happen.” At the same time, it can address misuse of discretionary power of bureaucrats, discourage politicians from trying to frame policies related to people while being negligent about involving the people or prevent irregularities or apathy of the state in rendering public services. In short, the RTI Act can strengthen the citizens' rights to the state.

To get the benefits of a law, one has to ensure its proper implementation. A powerful law such as the RTI Act can become meaningless due to lack of its

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*\*The author is the Deputy Director of COAST, Bangladesh.*

application. The law was passed in Bangladesh in 2009. How encouraging is the picture of its implementation since then? What are the impediments to its implementation? What are the experiences of the countries that successfully implemented the law? What are the factors that led to their success? Can Bangladesh take lessons from these successful countries? This chapter aims to find the answers to these questions.

Among the countries that successfully implemented the RTI Act are India, Mexico and South Africa. This chapter analyses the experiences of these countries. In some cases, it describes the experience of Canada. Alongside it, it provides a comparison of the legal strength of the act among the South Asian countries. It also briefly mentions steps taken by countries that have been more successful than others in implementing the law and describes some lessons that Bangladesh can learn from their experiences. Finally, the chapter puts some recommendations applicable for implementing the law in Bangladesh.

## Implementing RTI Act: Experience of Successful Countries

### Mexico

The right to information was not legally accepted in Mexico till 1977. To recognise the right, Mexico had to amend its constitution by incorporating the words “the state shall ensure the right to information” before promulgating its RTI Act. The federal government of Mexico is run by a political party, “Institutional Revolutionary Party,” which is more than 70 years old. The government was changed in 2000 and the new government drafted an RTI in the following year. Parallel to the government, a civil society group named Oaxaca Group, comprising of human rights activists, journalists, lawyers and educationists, drafted their own version of RTI. Besides, the third largest political party of the country, PRD (Party of the Democratic Revolution), also prepared another draft act. All of these were submitted to the government that finalised the draft in the light of proposals from all quarters and upon getting nods from all, placed it at the congress.

The Federal Transparency and Access to Public Government Information Act was approved the following April. It was made effective from June 12, 2002.

Under this Act in December 2002, Mexico formed the Federal Institute of Access to Information or IFAI to ensure that government agencies are preserving information and people have access to government information. The RTI act was promulgated with the aim of encouraging people in filing applications to obtain information and the government organisations to voluntarily provide the people access to information. It aimed to inspire people about transparency, honesty and accountability of public administration so that they could evaluate the efficiency of these organisations. The main objective of this law is to establish complete democracy and rule of law in Mexican society.

The law talks about regulations for record management and preserving personal information. This law can be applied in three divisions of the government- 'legislation, judiciary and executive' and constitutionally established autonomous bodies. Thus, the Federal RTI Act gives clear directives to the legislation and judiciary divisions to formulate their own organisational structure to provide information.

It is not compulsory for one to be a Mexican citizen to seek information. Any citizen of the world can seek information. What is the price? The price would never be more than the original cost of its preparation and posting it. The government organisations are bound to provide the information at the lowest possible cost.

The government organisations must provide the answers to the applicant within 20 days of application. If there is a valid reason for delaying it, it will get another 20 days by specifically mentioning why. The applicant can file for an appeal if the authorities refuse to provide information or have given incomplete information.

Set up as per the RTI Act, the autonomous body IFAI enjoys freedom in

performing its duties, managing funds and taking decisions. The job of this body is not just stimulating an increase of the use of the RTI Act, but also to provide solutions to appeals. The IFAI is formed with five commissioners appointed by the president of Mexico. If the Senate has no objections against any of them within 30 days of appointment, their appointments will become naturally effective.

When someone files for an appeal, the IFAI provides solution for the problem between the applicant and relevant organisation. If the IFAI gives a verdict favourable to the government organisation—for which the organisation refuses to provide information—the applicant goes to the judiciary to file an appeal. In 2009, five per cent of the total applicants sought appeal. These were resolved by the IFAI.

The RTI Act talks about fastest and easiest way of delivering information. Mexico handles information in an electronic system. Three systems are

Some Country-wise Statistics on Implementing the RTI Act

Subject	Bangladesh	India	USA	UK	Japan
Name of law	Right to information Act	Right to information Act	Freedom of Information Act	Freedom of Information Act	Freedom of Information Act
Date of enactment	29 March 2009	15 June 2005	4 July 1966	30 Nov 2000	May 1999
Date of implementation	6 April 2009	12 Oct 2005	4 July 1967	Jan 2005	April 2001
Time taken for implementation	07 days	Four months	One year	Four years	Two years
Maximum deadline to provide information	Generally 20 days, if there is a 3rd party it is 30 days; if this deals with life and death, arrest or release from jail, within 24 hours	30 days	20 days	20 days	30 days



mentionable: (a) POT (Portal de obligaciones de Transparency—Transparency obligations Portal), (b) Infomex and © Zoom.

**POT:** This portal controls, organises and puts in its own procedure the voluntarily disclosed basic information of different government organisations. Instead of going to websites of different organisations, one can visit the POT and find basic information for all of them. Many government documents need to be released voluntarily due to legal obligations. According to the RTI Act, the government organisations are legally bound to update some of their information like the organisation's structure and type of its service and the names and contacts of government officials and their monthly salaries. In 2009, this website received 28 million hits.

**INFOMEX:** Here an individual applies for getting information electronically. As the information is electronic, one can file application from anywhere in the world. In Mexico, 97 (per cent) per cent of applications are filed electronically. The INFOMEX system monitors the progress of the application. To get its benefits, the applicant has to sign up there and create a basic profile. Then the applicant gets to select issues of 243 federal agencies. The system will then generate a file number using which the applicant will clearly know about the latest location of the application. The Infomex saves cost. To get its benefits, one just needs access to an internet enabled computer. If one needs no copy of a file, he or she can get the information for free. The Infomex also allows one to correct one's private information. In 2009, Infomex received 117,000 applications.

This is an effective monitoring tool through which one can observe the level of efficiency of government officials. There is no possibility of one's application getting lost under this system. The 20-days deadline or Affirmative ficto to provide answer is effective here. Affirmative ficto is acceptance of an application even if the answer is not given. The advantage of this system is that when an answer is given, it is easily preserved. This

helps individuals who have logged into the system to see the preserved answers and perhaps not need to file an application if these answer their questions.

**Zoom:** The Zoom electronic system preserves the information requests. It is an advanced web based search engine that helps users to see all applications, appeals filed to the federal executive branch and also the related answers. The user can search using key words, date or organisation names. This system helps find examples.

It should be mentioned that each of the states of Mexico has their own RTI Act. Unfortunately, not all of them have the same qualitative standard and therefore affect the peoples' right to information in different states. Considering this lack of standard, Mexico amended its constitution and promulgated a new guideline to implement the RTI so that there is a uniformity of the law in all of the 32 states.

From the Mexican experience, we realise that the RTI Act and IFAI empower the citizens in reducing corruption and misuse of power of government officials; this also allows one to obtain all records related to the citizens' medical treatment. The RTI Act has also created a public debate on how important it is to preserve private information.

## Challenges for Mexico

The laws related to record management and preservation of data in the private sector are still awaiting approval of the congress. The Record Management Law implementation is necessary so that different authorities cannot use the excuse of not having such information in their archive to refrain from providing the information. The general number of RTI Act users is still not up to the mark. Most users are journalists, NGOs, businessmen and educationists.

It is imperative to increase the efficiency of sharing knowledge to deal with such challenges. This can be achieved by mutual discussions and visits among regional countries. For instance, a team of representatives from

Bangladesh visited Mexico in 2008 to see their experience.

## India

The Indian government in 2002 promulgated the Freedom of Information Act, 2002 to increase transparency and accountability in public administration. Later this was annulled and replaced by a new RTI Act on October 12, 2005. This law empowered the Indian citizens to seek information from the administration, which, in effect, would make the government and its activities half accountable and responsible. In the last six years, there had been many diverse instances of benefits of the law in which the poor and backward communities also got benefitted. But the actual implementation did not reflect the expectations. Some of the unquestioned achievements of this law are:

- The principles of the law are being implemented. It has found an institutional structure and the citizens have started using it.
- The institutional role of the Information Commission has become vital.
- The civil society organisations have been continuously working for the successful implementation of the law.
- The media have been applying the law to bring transparency.
- The departments in central and provincial government have been receiving training on the act to understand their responsibilities.
- The government authorities are aware of the main elements of the law.
- Many provincial governments have taken some steps, which have made the implementation of the law dynamic.

The following table shows the possible barriers and solutions faced by information providers and applicants in following the law:

Observation	Main issue	Recommendation
Increasing accountability and clarifying roles	<ul style="list-style-type: none"> <li>• There is no adequate planning to identify information that can be voluntarily disclosed by government agencies, remove barriers and provide information to citizens as they demand</li> <li>• Lack of manpower and finance at the information commission</li> <li>• Differences in the role of provincial information commissioner and State nodal department in implementing the law</li> </ul>	There should be an RTI implementation cell at the central level which will be headed by a bureaucrat who is capable of coordinating among ministries/divisions
Increasing RTI related awareness	<ul style="list-style-type: none"> <li>• 13 per cent rural and 33 per cent urban people are aware about the RTI</li> <li>• Only 12 per cent women and 26 per cent men are aware</li> <li>• This situation prevails due to lack of publicity by the government. The present level of awareness was created only by the campaign by the media and civil society</li> </ul>	The government needs to launch a strong campaign like the ones on consumer awareness or family planning to make people aware, increase their participation and encourage to criticise. The Information Commission may put up a display board with messages to encourage people to be aware about their rights and responsibilities
Simplifying the application process	<ul style="list-style-type: none"> <li>• Many departments behave in a way that discourages the citizens. For instance, the sample form for information application is a guideline. But the departments would refuse to provide information on ground that the application was not made in the form</li> <li>• The application filing on PIO Offence is most complicated. More than 26 per cent applicants had to go more than thrice to an office to file such application. About 45 per cent said that they did not see any signboards to help them file the application</li> </ul>	<ul style="list-style-type: none"> <li>• To set up a common survey centre (CSC) for every six villages from where the government would provide various services. A PPP model may be applied here. The CSC can help people file the RTI application and submit it.</li> <li>• The information fee may be submitted through postal order, demand draft, cash, court fee</li> </ul>

Observation	Main issue	Recommendation
	<ul style="list-style-type: none"> <li>• The law speaks of confirming the recent PIO list, but in reality it is not done. This creates problem for the citizens</li> <li>• Although there is no legal obligation for the applicants to be present themselves to pay for the information as required, the officials make them physically present</li> <li>• The law clearly spells out the expectations from the PIO, but they do not help the people accordingly</li> </ul>	<p>stamps or non-judicial stamps</p> <ul style="list-style-type: none"> <li>• An RTI envelop may be prepared; its cost included in the cost of providing information</li> </ul>
General infrastructure and efficiency increase	<ul style="list-style-type: none"> <li>• The application filing on PIO Offence is most complicated. More than 26 per cent applicants had to go more than thrice to an office to file such application. About 45 per cent said that they did not see any signboards to help them file the application</li> <li>• The law speaks of confirming the recent PIO list, but in reality it is not done. This creates problem for the citizens</li> <li>• Although there is no legal obligation for the applicants to be present themselves to pay for the information as required, the officials make them physically present</li> </ul> <p>The law clearly spells out the expectations from the PIO, but they do not help the people accordingly</p>	
Increasing the effectiveness of the Information Commission		
Establishing monitoring system by a third party		

## South Africa

The main legal initiative to establish rights to information in South Africa is the Promotion of Access to Information Act 2 of 2000 (PAIA). This act aims at ensuring right to information from government and non-government offices and individuals. The act recognises obtaining information as a right. The act aims at abolishing secrecy or inactivity in disclosing information at government and private level and thus establish a link between democratic accountability, transparency and rights to information. It is believed that the presence of this act would provide respite from misuse of power and violation of human rights.

The characteristics of PAIA include an initiative to ensure accountability of both government and non-government organisations and simultaneously create the right of access to all information (Section 3, page 9) of all times. This law overrules any other law that provides the shield of secrecy for any issue (section 5, page 9-10). However, the law defines information as the ones which are only recorded, such as listed files.

The PAIA has many merits. But its biggest limitation is the definition of information, which undermines access to other types of information. In some cases, the PAIA exempts the obligations to provide information. Although the law talks about disclosing information in the interest of the public, it did not explain what is of public interest.

Though PAIA is the main law in South Africa in disclosing recorded information, there are some other laws that can be mentioned here. These are:

- Protection of Information Act 84 of 1982 (PIA)
- The National Archives of South Africa Act of 1996 (NASA)
- Minimum Information Security Standards of 1996 (MISS)
- Legal Deposit Bill of 1997 (LDB)
- Protected Disclosures Act 26 of 2000 (PDA)

- Promotion of Equality and Unfair Discrimination Act 4 of 2000 (PEUDA)
- Promotion of Administrative Justice Act 3 of 2000 (Paja)

## Implementation of PAIA

The 1996 South African constitution is considered as one of the most progressive constitutions of the world. The constitution incorporated specially a bill of rights for rights of information, which made many think that it would bring in revolutionary changes in socio-economic and political arena. But the reality shows a different picture. The distance between paper rules and stark reality needs to be addressed by taking a lot of measures in South Africa. The PAIA is one such example that could not succeed as was expected in implementing the right to information.

There are specific reasons for the failure of the PAIA. The right to information languished in negligence in South Africa for a long time. That is why it was very difficult to change the way of things overnight. On the other hand, there was no initiative to train government and non-government officials on this issue. Therefore, they have learnt very little about the importance of the law or the strategies to implement it. There was hardly an attempt to publicise the law and the people were not even properly trained to make full use of the system in place.

A non-government organisation Open Democracy Advice Centre (ODAC), conducted a survey in 2003. It found that more than half of the officials of government and non-government organisations did not even hear about this law. Besides, the PAIA's language and structure are difficult and it talks a lot about structures. Therefore, it needs wider general education as well as skilled manpower for its successful implementation.

There are two government organisations (DACST and DoJ) mainly assigned to implement the law—but they have done very little to conduct sustainable or long term training or campaign in this regard. Both these organisations however give the excuse that they lack funds. But the ray of

hope is that, some organisations are currently publicising about this law.

The vital impediment to the implementation of the PAIA is the weak management of recorded documents. As this law provides access only to archived documents, the applicants at first need to know the location of the documents they want. Finding these documents alone takes a lot of time.

To implement the PAIA, related public officials and political leaders must be made accountable to the people. To ensure this, if anyone is denied of the right to get information as per the PAIA, one can resort to two types of appeal. One is internal and the other is the court. But, in practice, both these forms of appeal have actually failed to ensure peoples' right. The main reason for this was identified as taking a very long time in resolving the appeals. It was found that in most cases of the internal appeals, the person who is handling the appeals is the same official or political leader against whom the applicant has brought allegation(s).

## The Major Challenges of Implementing RTI Act in Bangladesh

The Information Rights Forum has made a survey in which the respondents cited several issues that are the main challenges of implementing the RTI Act in Bangladesh. Most of the respondents (75.3per cent) talked about lack of adequate publicity, followed by ignorance about the law (73.5per cent), lack of will of the authorities in providing information (44.7per cent), a culture of secrecy (38.1 per cent), lack of citizens' demand for information (33.5per cent), lack of institutional preparation (30.7per cent), inactivity of non-government organisations (22.8per cent), lack of technical preparations (20.5per cent), lack of media interest (16.3per cent), frustration over limitation of the law (13per cent) and others (13.5per cent).

### Main Challenges of Implementing RTI

Main Challenges	Govt.	Non-govt.	total
Ignorance about law	72.9%	74.1%	73.5%
Authorities' lack of will to disclose information	26.2%	63%	44.7%



No demand for information	31.8%	35.3%	33.5%
Lack of publicity	77.6%	73.1%	75.3%
Inaction of non-government organisation	17.8%	27.8%	22.8%
Wrong explanation by Information Commission/authorities	6.5%	9.3%	7.9%
Lack of institutional preparation	26.2%	35.2%	30.7%
Lack of technical preparation	22.4%	18.5%	20.5%
Secretive mentality	27.1%	49.1%	38.1%
Frustration over limitation of law	10.3%	15.7%	13%
Lack of interest of media	11.2%	21.3%	16.3%
Others	15%	12%	13.5%

(One respondent gave more than one answer)

Some of the recommendations given by the respondents to overcome the challenges include: prepare information, creating infrastructure for information exchange, increasing public awareness and demand for information, structuralise enforcement of law and creating alternative ways of collecting information.

The first annual report of Information Commission, in 2010, mentions some challenges. These include: increasing public awareness on RTI Act, applying digital system for preservation of information, managing information as per catalogues and indexes, creating a culture of self disclosure of information, appointing authorised officers and taking initiatives necessary for increasing their skills, creating a culture of giving information in the secrecy loving bureaucracy, incorporating the RTI Act in the mainstream and monitoring its implementation.

The Information Commission recommends that, to implement the RTI Act, the authorities should expedite fast appointment of authorised officers and provide them with the necessary logistics, fix fees for availing information, appeal filing and lodging complaints, reducing time for giving information, expanding the area and volume of suo moto disclosure, releasing

information in websites by cataloguing or indexing them, engaging the NGO bureau as an authority to monitor steps taken by NGOs to comply with the RTI Act, taking steps to have video conference based hearing, voluntarily publishing information on public interest, preparing Citizen Charters for each of the organisations and publicising them, accepting citizens applications online and providing information in the same way, regularly updating websites, giving full financial independence of the Information Commission, includes the private local and multinational companies in the RTI and finally vesting powers with the Commission so that when an authority refuses to implement decisions or orders of the Commission arising out of a complaint, charges of contempt of court can be brought against it.

## The present picture of implementing RTI Act in Bangladesh

The first annual report of the Information Commission in 2010 mentioned the following steps taken by various authorities:

1. Opening of websites of different authorities across the country
2. The RTI Act integration with the information flow in most of the districts
3. Voluntary disclosure of important information of different authorities at their websites
4. Appointment of Authorised Officers at different public and non-government organisations to provide information
5. Supply the examination marks upon release of exam results under Bangladesh Public Service Commission.

## Comparative Analysis and Necessary Learning

We shall try to analyse the factors of successful implementation of RTI Act based on the primary impression of cases in India, Mexico and South Africa. In India, the RTI Act 2005 was introduced following a long and hard campaign, for which its application at national level was ensured. This law is

a revised version of Freedom of Information Act of 2002. Alongside, there had been good results from applying the law in different provinces. Compared to the 2002 Freedom of Information Act, the 2005 RTI Act is recognised as a superior example in the world. This act has defined information in a very broad perspective. It includes anything in the recorded files as information. Another good example is fixing the maximum deadline for providing information. In India, 30 days is the maximum deadline after filing an application for providing information. But when the information deals with life, freedom and liberty, the obligation for releasing information is 48 hours.

Approval of the law is the first step of getting its benefits. This kind of law empowers the citizens and cuts down bureaucracy. In the context of India, the RTI has shrunk the path of corruption and wrong activities of the bureaucracy and their inefficiency and incompetence. While the bureaucrats and politicians are aware of their capacity to control governance in a rapidly changing world, the RTI has weakened their capacity.

The RTI is followed in India for a long time. According to its experience, there should always be increasing efforts to implement the RTI for its implementation and the system to provide timely information must be kept active. In August 2006, there was a move to amend the newly approved RTI with the objective to exempt “file notice” from the act’s purview. But due to a wide-spread protest, the cabinet did not proceed to amend it. In June 2009, the Indian president in her parliament speech said that the RTI Act can be strengthened further by making necessary corrections to the law and preparing a policy for voluntary disclosure of information by the government. However, RTI campaigners termed this suggestion as an alternative suggestion for exempting “file notice” from the act.

A recent research of Raag and Ncpri found that in the first two and a half years of RTI Act approval, four lakh rural people and 16 lakh urban people filed application for information. The number may seem to be insignificant,

but it is positive when compared with the situation in other countries. Of the rural applicants, 30 per cent people live below the poverty line or users of Antyodaya ration cards. Five per cent people among urban applicants live below the poverty line.

Another case study to highlight is that of Canada. Canada is a rich and institutionally democratic society where the RTI law is being practiced for a long time. The law is applied here through a mixed system. Although its government is open, there are political high handedness and bureaucratic hurdles. Perhaps the law tried to break down the historic culture of bureaucratic secrecy primarily by reforming the administrative activities, rather than ensuring peoples' basic rights to information.

## Legal Basis of Information Rights in South Asia: Comparison between Bangladesh and Other Countries

Subject	Bangladesh	Nepal	Pakistan	India
Constitutional protection	Protected (by interpretation)	Protected	Protected	Protected (by interpretation)
Law	Right to Information Act, 2009	Right to Information Act, 2007	FOI Ordinance, 2002	Right to Information Act, 2005
Information regarding non-government organisations	NGOs operating with help from government or foreign funds; NGOs that carry out government works as per a contract with government	Organisations receiving government grant; NGOs that receive help of government or foreign organisations	Nothing is mentioned	Autonomous or government controlled organisations; NGOs, directly or indirectly, controlled by government
Voluntary disclosure of information	Very limited. Talks of only four types of information that can be voluntarily disclosed.	12 types of information that can be voluntarily disclosed	Very limited with only five types of voluntary disclosure information	17 types of information to be voluntarily disclosed
Exemption	20 types	5 types	4 types and 9 issues are related to the type of records. In 5 cases, authorities can say no.	10 types and in one case where authorities can say no
Policy on publishing government interest	Nil	Nil	Government can object to disclose information in the interest of the government	Information can be denied if the interest of the government is stronger than the interest of the individual
Fee exemption	Government fixes in consultation with the Information Commissioner	No exemption	Pre-fixed rate. But information will be given at a transparent rate	People leaving below poverty line needs not pay any fee. If government authorities fail to provide

Though the Mexican RTI Act is younger than that of Canada, it has established itself as a prime example of implementation. This has been possible because Mexico has an Oversight Committee that plays an effective role in the implementation. Besides, the top policymakers have the political will, and there is a strong supportive civil society to make it work.

On the other hand, despite an initial expectation from a strong progressive law, South Africa very weakly implemented its right to information act. It is true that the RTI law brought a revolutionary change to a society that was divided along ethnic lines. Due to a particular historic context, the South African people leaned more towards rights based on equality, not on right to information. The political will was weak while a few bureaucrats supported it. The implementation infrastructure and strategy were also weak. They have failed to fix an independent monitoring or evaluation committee. Some amended power was handed over to the existing human rights commission only.

It is necessary to discuss what steps different countries have taken to overcome the main challenges of implementing the RTI. In India, different players that have played an effective role in implementing the RTI are: various information commissions at centre and provincial levels, officials and employees appointed as authorised officials, department of personnel and training, NGOs, educationists, media, lawyers and private sector. Another factor is applying at local level by utilising the experience of other countries. One of the major challenges of implementing the RTI Act is the culture of secrecy. This not only affects administrative culture but also embarrasses political considerations. In the light of experiences of other countries, the system to provide information should be improved, public awareness be raised and the people should be encouraged to make use of the law, and above all the legal organisations especially the information commission, be allowed to freely and efficiently carry out their responsibilities.

## 1. Coming Out from the Culture of Secrecy

An important chronic problem for anyone who deals with information rights is the culture of secrecy. This has such a deep influence that it can successfully ignore the success of an existing law and prevent the government from achieving its desired goals. It is also proven now that a section of bureaucrats would always create impediments in the way of transparency. Such culture is seen as an impediment in countries like Canada, Australia or South Africa.

Mexico sets a positive example in this regard. The country's top political leadership and bureaucracy recognise the importance of transparency and thus played an important role. But ensuring free flow of information in Mexico is still difficult in many ways. For example, in 2006 Mexico was faced with a demand for recounting polls. The authorities at first declined the demand to recount the votes cast in the election. Their excuse was that there was no legal provision to do so. This triggered a nation-wide debate.

In 2005, Snell (2005) gave a model to measure bureaucratic response in the RTI Act, which talks about five types of administrative resolution: (a) Malicious non-compliance- refusing to reply to an application, destroying files, refusing to give a file information purposefully; (b) Adversarialism where they depend on exception, delay over the legal maximum time, using the minimum excuse for refusing to provide information. (c) Administrative non-compliance- giving inadequate resources, weak management, putting least priority on the application. (d) Administrative compliance: timely decision and using least number of exception; and (e) Administrative Initiatives: giving highest priority to the applications, additionally providing information informally, to ignore exception practices, discretionary powers, etc. Most of them are being followed in all countries partly or by a great proportion.

There are some original means to come out from the culture of secrecy. For instance, putting more emphasis on training, giving more support to

information officers and finding ways to integrate right to information law with the mainstream and the parliament and the court should be showing greater tolerance.

### ***(a) Training***

Experts say one of the very important elements to successfully implementing the RTI Act is to provide adequate training to the officials and staffs dealing with the law on the rights to information. If the people dealing with RTI Act are not aware about the legal provisions, implementing the law becomes impossible. Through training, the officials will learn about the benefits of the law and their obligations.

In providing training, there are certain challenges. Sometimes, it becomes very difficult to determine which persons should get what proportion of training. In India, where a lot of people deal with the law, it becomes a real difficult job to sort officials for the training.

There should be different sets of training for officials of different tiers and responsibilities. But there is a need for general training for all. In South Africa, its Human Rights Commission, in a report, termed success the act of training given to the high officials of the country's reserve bank. On the other hand, the commission opined that the authorised information officials needed to get more attention.

Canada is an example of what happens when adequate training is not given to officials. According to a government report, after making the right to information law effective 20 years ago, it was found that the large part of government officials did not understand the law due to lack of training. In a survey conducted by Open Democracy Advice Centre in 2001, it is seen that more than half of the officials of three branches of the government did not know even the existence of this law.

According to Indian law, there are special allocations for related officials and employees in different government offices for training. The South



African human rights commission itself takes the initiatives for training officials. The civil society or the NGOs can play an important role in providing training. In the United States, the civil society plays the major role in training.

### ***(b) Location and role of Information Officer***

The designated information officer in different departments plays a very vital role in the implementation of the law. In Mexico, an expert official is given the duty of the authorised information officer instead of deploying someone new. This creates an uneasy environment because the official concerned is carrying out a duty in addition to his or her existing responsibilities. The official works in discomfort.

In Canada, the problem lies elsewhere. There is no specific policy to appoint any information officer or designating someone in charge for giving out information. But various steps are being taken to resolve this problem by taking up internship programmes and hiring some professional people. To develop information experts, the Alberta University has a special programme “Information Access and Protection of Privacy Certificate Program.” This academic and formal initiative aims at developing a standard for information experts.

Many experts emphasise on ensuring freedom to the information officers. Experts suggest that the officials may be made accountable directly to the Information Commission instead of to the office they are working with. Such a system prevails for the government lawyers of Canada. The lawyers may work in different offices, but they are accountable to the judiciary.

The information officers should have the power to decide disclosure of information. They may take advice from higher authorities while dealing with sensitive issues, but, otherwise, in most cases, the information official should be able to take decisions on his/her own. Indian information officials can only process the requested information; they cannot do anything outside of it.

A network of information officers can help implementing the law. In Canada, several organisations are working to bring the information officials in a network and to forge cooperation among them. The South African Human Rights Commission has set up a forum for information officials with the objective of establishing uninterrupted communication among themselves and improving the level of efficiency on the basis of sharing their experiences.

***(c) Right to information act and general public administration***

Another important challenge for implementing a new law is integrating it with the existing public administration. Although the related formality is easy to accomplish, it is difficult to integrate it with the administration in real sense.

To implement the RTI Act, at first there should a special environment where the law does not seem to be an imposed extra burden. Rather it should appear to be a part of the public administration.

In Canada, while implementing the law through the government offices at the primary stage, the biggest problem was the lack of interest of the officials. They were not used to disclosing information in general. Therefore, it was difficult to make them respect the right to information law. To imbue the public administration officials with the concept of right to information, several steps may be taken. A code of conduct may be fixed for the officials.

It is very difficult to change the continuity of any department and it is a long term process. Only training and general education are not enough. Change of the mindset of the officials in this case is very important; they must realise that disclosing information is part of their job, it is not an extra burden.

When a government high official speaks in favour of the Right to Information Act, it will have a long term positive impact. In 1993, USA

Attorney General Jeanette Reno worked in this regard, which triggered the urge among government officials to disclose information. In Mexico, the right to information movement gained its momentum due to the personal interest and initiative of the then president Fox. On the other hand, many believe that due to lack of interest of high officials of South Africa, the right to information movement slowed down.

If public administration officials are informed about the benefits of free flow of information, they may be encouraged to be a part of it. In the United Kingdom, the civil service forum itself campaigns in favour of implementing the right to information. In South Africa, a special award “Golden Key” has been introduced for officials and media personalities for implementing right to information law.

#### ***(d) Role of the parliament and judiciary***

As per the Indian law, the national and provincial law department observes the implementation progress of all laws related to right to information. The law division also enjoys specific powers for supervision of the implementation process. When it directly supervises implementation of the act, it is helped by the political commitment and through this some messages go to the relevant quarters that misuse of the law will not be tolerated.

In Canada, the parliamentary Standing Committee on Access to Information, Privacy and Ethics plays a vital role in implementing the act by investigating misuse of information act, summoning related officials in case of failure to implement the law, and proposing reform of the law, etc.

The judiciary plays an important role by giving decisions through interpreting and analysing various aspects of the Rights to Information Act. Other than playing this role in resolving various debates and conflicts, the judiciary can also play a role in maintaining a positive social perception about the courts.

Country	Sweden	USA	UK	India	Bangladesh
Constitutional protection	Protected	Not protected	Not protected	Protected (by interpretation)	Protected (by interpretation)
Law	Freedom of the Press Act 1766	FOI Act 2000	FOI Act 1966	Right to Information Act 2005	Right to Information Act 2009
Right to access	Not limited to nation or any other boundary	Not limited to nation or any other boundary	Not limited to nation or any other boundary (some exceptions)	Limited within citizens	Limited within citizens
Procedural guarantees	Applicant gives personal details and reasons for applying	Applicant's personal details and description of desired information	Applicant's personal details and description of desired information	Only mention contact information	Applicant's personal details, description of desired information and how it should be delivered
	No specific deadline though it talks about swift delivery	Deadline has different types of rules	Deadline is set on the basis of the importance of the application	Usually 30 days. In case of matters related to life and sovereignty it is 48 hours	Usually 20 days. In case of life, death, arrest or release from jail, it is 24 hours
	No mention of request transfers or consultation with third party	Request can be directly transferred	No mention of request transfers or consultation with third party	Request can be directly transferred	No provision for request transfer
	File can be seen free of cost. Charges apply if applicant seeks copies of more than 9 pages	Separate fees for simple and complex application	Commercial, education or science related organisations and other applicants pay particular fees	Fees apply for electronic delivery of information. No fees required for BPL	Not all information is free. Fee is set on the basis of types of information, way of delivery
	Letter is issued explaining why information could not be given	Letter is issued explaining why information could not be given	Letter explaining to what extend information could not be given is issued along with name and contact of decision making official	If application is refused, the reason is explained in a letter along with information on how to file an appeal	Applicants are formally informed about decline
Obligations for disclosure	No obligations. Usually information is disclosed in websites	No information on this issue	All information is easily available except for certain information which are published in federal registrar	Special provision for voluntary and regular disclosure of information	Mandatory publication of annual report to be submitted to the president
Exception	There is no notable exception about giving information on life or plants	Some rare and strange exceptions about the royal family	Strange exceptions regarding oil fields	Exceptions regarding information that helps immoral activities	Exceptions deal with life, state security, intellectual property and foreign affairs

### ***(e) Politically sensitive information***

In many countries, collection or publication of politically sensitive information is very difficult. In general, the information is related to a wrong decision or act of the government, the government and bureaucrats become united in creating hurdles. Using the Canadian experience, when someone seeks information considered as politically sensitive, the authorities resort to sending the information required to the relevant ministry instead of giving them to the applicant. According to a researcher, out of such files sent to the foreign affairs ministry, 50 to 70 per cent never gets to be resolved. In the case of defence ministry, half of the files are never resolved. In South Africa, such sensitive information cannot be even sent to the country's Truth and Reconciliation Commission.

## **2. Uninterrupted Information Flow**

To ensure transparency among bureaucrats, ensuring uninterrupted information flow is a mandatory condition. This requires an effective policy guideline for publication of information and an empowered system and field is required to implement the policy. Two issues need to be given importance—a simple and universally understandable process to seek information and a system to voluntarily disclose information. These issues are inseparable in ensuring rights to information. However, bureaucratic bottlenecks still remain as a hard impediment for implementation of the right to information.

### ***(a) Encouraging demand for information***

The demand or application for information is the lifeline of the implementation of the right to information act. If there is a lack of request for information, the whole system to implement right to information is threatened. India set a positive example in dealing with such issues. But to maintain this example is a challenge for India. On the other hand, the number of information requests in South Africa is negligible as there is frequent transfer of officials concerned, lack of efficiency and shut down of offices.

In Mexico, there is a provision for seeking information through e-mail. There are other systems too for seeking information as not everyone can seek information using e-mail due to the associated costs. There is a special allocation for those who use email to obtain information. The Mexican information commission, The Instituto Federal de Acceso a la Informacion Publica, plays a key role in this regard. To manage e-mail based applications, this commission has a digital system called Sistema de Solicitudes de Informacion, widely known as SISI. The SISI regularly updates the applicants about the progress made with their application or complaints. As this has simplified application filing and made it effective, Mexico has achieved a remarkable rate of demand for information and resolution. Between 2003 and 2007, as many as 220,000 applications were filed.

A quick resolution or processing of an application or quick release of information is an important ingredient in ensuring right to information. Delay in delivering information can destroy the whole process. The Canadian law allows an official to extend the time for delivering the information, if he/she wishes. While officials extend this time showing rational grounds, in most cases, they tend to violate the extended deadline. This has prompted the Canadian government to formulate a new law to speed up the information delivery process.

Delay was also a serious issue in the United States. To resolve delay in information delivery, the United States promulgated a tough law in 2007. South Africa is also plagued with the problems of delayed delivery. In a survey in 2006, it was found that in 62 per cent cases, officials failed to deliver information within specific deadlines. Mexico is perceived to be a success in this regard.

Another impediment to implementation of the right to information is using the excuse of not having the information. In many cases, departments tend to decline giving information citing not having the information as the reason, when they actually have the information.

### ***(b) Voluntary disclosure of information***

Voluntary or proactive disclosure is another important element for implementing right to information. But many countries are lax about this issue. India is trying to achieve some success in this regard. It is experimenting with various initiatives to ensure a voluntary disclosure system.

The Mexican information Commission has the jurisdiction to decide various features for voluntary disclosure of information. In India, people cannot complain about the authorities' failure to voluntarily disclose information. But, in Mexico, the information commission regularly monitors different government websites and rates these sites with the purpose of creating a sense of competition among the different government bodies. This initiative is highly lauded. The different government websites are similar in nature so that they are convenient to the users.

In the United States, a plan was submitted to encourage government organisations to voluntarily disclose information. This plan details what kinds of information will be disclosed and how they would be displayed. Mexico has made it an obligation for the government institutions to disclose certain information. It has also a policy on how such information will be distributed. The government distributes all of its publications to different libraries. There are some 52 libraries connected to a network. General people can access these publications through the internet.

Sweden regularly publishes information of different government organisations and their lists—so that when needed, people can easily access them. In Mexico the whole process of a request, follow up process and delivery of information is automated. The information commission operates a database named Zoom from which anyone can obtain information in this regard. In the United States, information is released only in case of major public interest issues. In Canada, one can see all requests online, but the delivered information is not disclosed there.

### (c) Information management

Properly managing information is another important element for effectual implementation of right to information. When the information management is weak, the related authorities will be unable to provide information timely or properly.

Different countries have different weaknesses in information management. This is not just an issue with underdeveloped countries, but also with the developed countries as well. The Canadian Information Review Task Force in its 2002 report showed that there were problems with the information management at both its provinces and the centre. In Mexico, where the right to information act became effective in 2002, the information is managed through the internet and it has a well-managed information system.

The central government's directives and initiatives in this regard are deemed essential. Such initiatives are taken in United States, where the centre provides the specific directives on gathering information by government organisations, managing it and sending them to the central information hub.

### ***(d) Challenge of a necessary boundary***

Another important issue for implementing right to information is setting a boundary for which information will remain a secret and which information can be published. In many countries, secrecy law or lack of clarity, when it comes to dealing with such matters, poses an impediment for releasing information. In India, an information officer can be reluctant to release information by interpreting the RTI Act that there was no legal obligation to provide certain information.

There is no overnight solution to this problem. But it needs efficient and experienced officials to deal with such issues. Canada has a system to publish all government information. For this, the senior officials provide training to their sub-ordinates.



The South African Human Rights Commission compiles verdicts of the court related to right to information and publishes them online. The Mexican information commission sets different classifications for information. All government offices in Mexico have an information committee that looks after different aspects of information.

### ***(e) Complaint***

Complaint is essential to ensure right to information. Complaints may be filed with the related offices or to the information commission or any court. When a complaint is filed to an authority, it gives disclosing information a second chance by reviewing the process of giving information or by overcoming problems. It can help disclosure of information. It was seen that, sometimes the primary junior official dealing with information release does not know if they have the jurisdiction to give the information. In such cases, when a complaint is lodged, the higher officials can help giving the information. On the other hand, the commission or the court can establish a link between the applicant and related office.

Indian law empowers its information commission to set regulations to deal with such matters. Such regulations include training and fine against persons who creates impediments for implementing the law.

## **3. Participation**

No law can be successfully made effective without participation. This is applicable for the right to information act too. The first and foremost factor to judge whether the RTI Act is effective is to see the number of information requests. If this number is low, information disclosure becomes difficult. The political will to implement the law also depends on the public support for this law.

### ***(a) creating public awareness***

Public awareness is the most effective and major element in ensuring participation. The primary stage of implementation of the RTI Act is very vital as during this time, the peoples' realisation about the law will make

them interested about it. Besides, it is hard to retain the positives that are observed during the initial period. If the law does not reach the public initially, it becomes difficult to implement it. The Canadian Information Review Taskforce in its 2002 report said that the general people have not yet properly understood about the law that was passed 20 years ago. It added, after the law was passed, the steps to create public awareness gradually declined.

Experts hold the opinion that public awareness campaigns are urgent for distant or remote areas. In Mexico, awareness campaigns are carried out in remote places. The country's media also play a major role by running various news items collected by using the RTI law.

### ***(b) Role of the civil society***

The role of the civil society in establishing general peoples' access to information is vital. The civil society appears as the information demander on many occasions in greater interest of the people. The civil society plays such a role even in countries like the United States or Canada.

Different government authorities, especially the information commission, can take help from the civil society in two ways: firstly, by setting goals jointly with the civil society, and secondly, by raising the efficiency of the civil society in achieving the goals. The University of Alberta in Canada has various programmes to raise the level of efficiency. Different NGOs in the United States regularly provide training to their staffs. The Mexican information commission formally works with different NGOs in this regard. The commission directly sponsors one NGO in this regard. This NGO's job is to work at national and international levels for right to information.

### ***(c) Annual report and directives for citizens***

In India, it is mandatory to release easily understandable publications to get benefits from the RTI act. Publications from different organisations make people interested about their right to information. The annual reports of different organisations also help monitoring and reviewing the progress of

right to information. In Thailand, organisation wise information requests are not kept in archive, while some data on the requests are kept centrally. As a result, there is no scope to measure the real progress of right to information in Thailand.

The experience of Canada and Mexico proves that it has become easy to understand progress and problems by compiling information requests and publishing them in annual reports. This helps take necessary steps to remove barriers. On the other hand, the annual reports in South Africa lack data, leading to failure to achieve the expected goals. The 2006 annual report of South Africa was just filled with some primary information.

#### 4. Effective Information Commission

The Indian information commission plays a vital role in implementing the RTI Act and peoples' right to information. On the other hand, due to lack of a strong information commission, South Africa could not achieve its goals in this regard.

The information commission or the regulating authority would work effectively only when they are independent—free from political or other influence. They should also be independent in their operation. To keep the Mexican information commission or IFAI independent, there is a committee named Committee for the protection of IFAI's autonomy. This committee appoints non-political and respected persons in the commission who are acceptable to all parties and groups.

To ensure the commission's independence, Canada has a special committee. This committee headed by the parliament's speaker has participation of all political parties. The commission places its financial demands to this committee. This committee scrutinises the proposal and approves it. This is an attempt to reduce the government's control over the commission's finance.

In Mexico, the commission sends its financial proposal directly to the

president. The commission mainly enjoys overall independence. To keep the information commission effective, it should have a good relationship with all government organisations. The commission needs to have regular communications with information officials of these organisations. To implement the right to information act, the commission needs to be strict on one hand, and shun the mentality to impose decisions on different office on the other.

The following is a set of recommendations to effectively implement the RTI Act in light of experience of other countries.

Recommendations	Possible hurdle	Possible solution
Provide training to public officials on RTI Act; Information officials be given specialised training	Cost - lack of interest - human resources	- RTI issue may be incorporated with other training programmes - The training module, be well organised and appropriate for all - Specialised training module needed for information officers - Information officials need cooperation and training on phone hotline and online use
Establishing professional status of Information Officers and developing their roles	- lack of interest/ opposition - lack of system - frequent transfer in different posts	- There should be specific responsibility and scope for promotion for Information Officers to create a professional position - Information officers be given special training - Information officers be given power to take decisions on information disclosure - There should be a network or forum for information officers
Integrating Right to Information with the mainstream administration	- opposition from officials of different levels - lack of resources - lack of political will	- Implementing right to information needs to be identified as mandatory like other services - The RTI needs to be included in the central planning and budget - Right to information be incorporated as a yardstick for annual evaluation and public administration policy - High officials be empowered to decide on release of information
Giving incentives to create information demand and nurture them.	- lack of a easily understandable system - prolonged process after filing request - various internal opposition	- Establishing an internet based central system through which information requests and demands can be monitored - Creating a more professional and service oriented attitude when responding to information requests - making it mandatory to report on the overall process on responding to requests - regular monitoring of information requests and their responses
Taking steps for voluntary disclosure of information	- ability/ cost - system - opposition	- Taking steps against those who create hurdles for information release - For helping government organisations, various materials may be prepared centrally - creating websites for all organisations - there should be monthly publications which will be available online
A strong information management system	- ability - system - resources	- there should be adequate financial allocation for information management - Centrally prepared specific policy and guideline for information management - A responsible authority at central level - Setting a standard for information management
Realising the existing shortcomings	- lack of idea on the desired standard - existing culture of secrecy	- Provide trainings on existing shortcomings and problems - Instant cooperation when demands are raised through phone calls and the Internet - Specific directives to make different classifications

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